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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Cody Ciesielski,

Plaintiff,

v.

Perry Schmoekel, individually; and The
Church of Jesus Christ of Latter-day
Saints; a Utah corporation sole; Does I-X;
Black Corporations I-X and White
Partnerships I-X,

Defendants.

No. TBD

NOTICE OF REMOVAL

The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (“The Church”) and Perry Schmoekel (collectively, “Removing Defendants”), by and through undersigned counsel, hereby file the following Notice of Removal of this action, currently pending in the Superior Court of the State of Arizona, County of Maricopa, Case No. CV2022-092832, to the United States District Court for the District of Arizona, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. As grounds for removal, Removing Defendants state as follows:

PROCEDURAL HISTORY

1. The above-captioned case commenced when Plaintiff, Cody Ciesielski, filed a Complaint in Superior Court in and for Maricopa County, on June 28, 2022 (the “Complaint”). *See* Complaint, along with complete copy of Superior Court file, attached as Exhibit 1.

2. Removing Defendants waived service of process and acknowledged receipt of the Complaint on July 14, 2022.

3. A responsive pleading on Removing Defendants' behalf has not yet been filed.

TIMELINESS OF REMOVAL

4. Under 28 U.S.C. § 1446(b)(1), a notice of removal shall be filed within thirty (30) days after the receipt by the defendants, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

5. This Notice of Removal is filed within thirty (30) days after the Complaint was received by Removing Defendants and, therefore, is timely. *See* 28 U.S.C. § 1446(b)(1).

6. A Notice of Filing Notice of Removal is being filed with the Superior Court in and for Maricopa County. *See* Notice of Filing Notice of Removal (exclusive of exhibits), attached as Exhibit 2.

BASIS OF REMOVAL

7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.00 and there is complete diversity of citizenship. *See* 28 U.S.C. § 1332(a).

8. Plaintiff claims personal injuries as a result of Defendant, Perry Schmoekel's alleged liability. While Plaintiff has not yet claimed or asserted a specific amount of medical specials, the Complaint alleges expenses for medical treatment and care and lost wages resulting from the collision as damages. Here, the medical care disclosed by Plaintiff in connection with the collision totals \$161,300.03. Additionally, Plaintiff's Complaint certifies that this case qualifies as a Tier 2 case pursuant to Rule 26.2(b) Ariz. R. Civ. Pro, meaning the damages are in excess of \$50,000 but not greater than \$300,000. Accordingly, the amount in controversy exceeds \$75,000.

1 9. According to the Complaint, Plaintiff resides in Maricopa County,
2 Arizona, where he presumably intends to remain. He is thus considered a citizen of
3 Arizona.

4 10. Removing Defendant, The Church, is incorporated in Utah, and has a
5 principal place of business in Utah. It is thus considered a citizen of Utah.

6 11. Removing Defendant, Perry Schmoekel, resides in California, where
7 he intends to remain. He is thus considered a citizen of California.

8 12. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants “who have been
9 properly joined and served must join in or consent to the removal of the action” for all
10 actions removed based on diversity of citizenship. This is satisfied as both Removing
11 Defendants are filing this Notice of Removal.

12 **WHEREFORE**, Removing Defendants request that the above action now
13 pending in the Superior Court in and for Maricopa County be removed to this Court.

14 DATED this 9th day of August, 2022.

15 JONES, SKELTON & HOCHULI, P.L.C.

16
17 By s/Mark D. Zukowski
18 Mark D. Zukowski
19 40 N. Central Avenue, Suite 2700
 Phoenix, Arizona 85004
 Attorney for Defendants

20 **CERTIFICATE OF SERVICE**

21 I hereby certify that on this 9th day of August, 2022, I caused the foregoing
22 document to be filed electronically with the Clerk of Court through the CM/ECF System
23 for filing; and served on counsel of record via the Court’s CM/ECF system.

24 Byron F. Browne, Esq.
25 BROWNE LAW GROUP
26 366 N. Gilbert Road, Suite 201
 Gilbert, Arizona 85234
 Attorney for Plaintiff

27
28 s/Kadie G. Lewis